TROUTMAN SANDERS LLP

A T T O R N E Y S A T L A W

NATIONSBANK PLAZA 800 PEACHTREE STREET NE - SUITE 5200

ATLANTA, GEORGIA 30308-2216 TELEPHONE 404-885-3000

FACSIMILE 404-885-3900

RECORDATION No. 20345.

ROBERT D (BO) STRAUSS

404-885-3250

March 18, 1997

Secretary Surface Transportation Board 1925 K Street, N.W. Washington, D.C. 20423-0001

Documents for Recordation

Re: Interim Use Agreement

Ladies and Gentlemen:

I have enclosed an original and two copies of the document described below, to be recorded pursuant to Section 11301 of Title 49 of the U.S. Code.

This document is a partial release (entitled "Termination of Agreement"), a secondary document, dated January 30, 1997.

The primary document to which this is connected is recorded under Recordation No. 20345.

The names and addresses of the parties to the enclosed document are as follows:

Vendor/Lessor:

Thrall Car Manufacturing Company

2521 State Street

Chicago Heights, IL 60411

Lessee:

Georgia Power Company 333 Piedmont Avenue Atlanta, GA 30308 RECEIVED
SURFACE TRANSPORTATION

SURFACE TRANSPORTATION BOARD WASHINGTON, D.C. 20425-0001

3/24/97

Robert D.(B0) Strauss Troutman Sanders LLP 600 Peachtree Street, NE. Ste. 5200 Atlanta, GA., 30308-2216

Dear Sir: The enclosed document(s) was recorded proceedings.		e provisions of Sec	tion 11303 of
the Interstate Commerce Act, 49 U.S.C. 11303, on	3/24/97	at 2:58PM	, and
assigned recordation number(s). 20345-A,	المراجعة ال المراجعة المراجعة ال	er is select	

Sincerely yours,

Secretary

Enclosure(s)

\$\frac{\frac{1}{2}\cdot 00}{\text{.}}\$. The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

ance M. Fort

Signature

TROUTMAN SANDERS LLP

Surface Transportation Board March 18, 1997 Page 2

A description of the equipment covered by the foregoing document follows:

105 Avalanche® railcars bearing car numbers HBWX 96288 through HBWX 96392, inclusive.

I enclose checks totalling \$24.00 to cover the recording fees. Please return the original and any extra copies not need by the Board for recordation, and the enclosed copy of this letter, to Robert D. Strauss, Troutman Sanders LLP, 5200 NationsBank Plaza, 600 Peachtree Street, N.E., Atlanta, GA 30308-2216.

A short summary of the document to appear in the index follows:

Partial release (entitled "Termination of Agreement") to lease (entitled "Interim Use Agreement") with Recordation No. 20345, dated January 30, 1997 and covering 105 Avalanche® railcars bearing car numbers HBWX 96288 through HBWX 96392, inclusive.

Very truly yours,

Robert D. Strauss

For Troutman Sanders LLP,

Robert D. Straus

Attorneys for Georgia Power Company

Enclosures

Certification of Filer

I certify as follows:

- 1. I am the person filing the January 30, 1997 "Termination of Agreement" between Thrall Car Manufacturing Company and Georgia Power Company (copy attached) with the Surface Transportation Board.
- 2. I have compared the attached copy with the original of the Termination of Agreement, and found the copy to be complete and identical in all respects to the original document.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

March 5, 1997

Robert D. Strauss

Partner, Troutman Sanders LLP

Attorneys for Georgia Power Company

Termination of Agreement dated January 30, 1997 between Thrall Car Manufacturing Company, an Illinois corporation with its principal offices located at 2521 State Street Chicago Heights, IL 60411 ("Thrall"), and Georgia Power Company, a Georgia corporation with its principal offices located at 333 Piedmont Avenue, Atlanta, Georgia 30308 ("Customer")

WHEREAS, Thrall and Customer are parties to an Interim Use Agreement dated October 28, 1996 (the "Agreement") with respect to 105 Avalanche railcars bearing car numbers HBWX 96288 through HBWX 96392 inclusive manufactured by Thrall for Customer (the "Cars"), and

WHEREAS, the Agreement was duly filed for recordation with the Surface Transportation Board of the Department of Transportation (the "Board") on October 3, 1996 at 2:00 p.m and given Recordation Number 2**9**345, and

WHEREAS, Thrall and Customer desire to terminate the Agreement with respect to certain of the Cars and to record such termination with the Board.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, receipt of which is acknowledged, the parties hereby agree as follows:

- 1. Thrall and Customer hereby terminate the Agreement, effective upon payment with respect to the Cars listed herein; provided, however, that nothing contained in this Termination of Agreement shall affect the rights and liabilities of the parties under the Agreement with respect to acts, events or omissions occurring on or prior to the date hereof.
- Customer shall record this Termination of Agreement with the Board in order to release any lien created by or arising out of the Agreement with respect to the Cars listed herein.
- Nothing contained herein shall be construed to terminate the Agreement with respect to any Cars other than the Cars listed herein.
- This termination of Agreement may be executed in multiple counterparts which taken together shall constitute a single instrument.

Title:

THRALL CAR MANUFACTURING COMPANY
By: Everett E. Engle Title Vice President marketing Services
GEORGIA POWER COMPANY
By Cherry C. Hudgins

Assistant Corporate Secretary

STATE OF ILLINOIS)
OUNTY OF COOK)
On the 21 day of very 1997 before me personally appeared Every to me known who, being by me duly sworn, stated that he is Vice france of Thrall Car Manufacturing Company, that the foregoing instrument was executed on behalf of such corporation, and he acknowledged that the execution of the foregoing instrument was the act and deed of such corporation
My commission expires Motary Public
STATE OF GEORGIA)) ss: COUNTY OF)
On the day of, 1997 before me personally appeared, to me known who, being by me duly sworn, stated that he is of Georgia Power Company, that the foregoing instrument was executed on behalf of such corporation, and he acknowledged that the execution of the foregoing instrument was the act and deed of such corporation.
Notary Public My commission expires:

STATE OF ILLINOIS)	
) ss COUNTY OF COOK)	
of Thrall Car Manufacturing Company, that the	personally appeared <u>Everett E Eryle</u> , to me at he is <u>Nice Hesickett Marketia</u> , <u>Services</u> foregoing instrument was executed on behalf of he execution of the foregoing instrument was the
My commission expires: Febr. 16, 1939	Notary Public OFFICIAL SEAL LINDA E MAIORANO MY COMMISSION EXPIRES 02/16/99
STATE OF GEORGIA)) ss:	
,	

On the 12 day of February 1997 before me personally appeared Cherry C. Hudgins, to me known who, being by me duly sworn, stated that he is Hesistant Corporate Secretary of Georgia Power Company, that the foregoing instrument was executed on behalf of such corporation, and he acknowledged that the execution of the foregoing instrument was the act and deed of such corporation.

ANGELA K. PAGE

Notary Public, Henry County, Georgia

My commission expires: _

COUNTY OF

My Commission Expires April 20, 1999

INTERIM USE AGREEMENT

Interim Use Agreement dated October 28, 1996 between Thrall Car Manufacturing Company, an Illinois corporation with its principal offices located at 2521 State Street Chicago Heights, IL 60411 ("Thrall"), and Georgia Power Company, a Georgia corporation with its principal offices located at 333 Piedmont Avenue, Atlanta, Georgia 30308 ("Customer").

WHEREAS, Thrall and Customer have entered into Purchase Order No. F-96113 as modified by Change Order No. 001 dated October 21, 1996 (collectively, the "Purchase Agreement") pursuant to which Thrall will manufacture and sell to Customer 182 Avalanche® railcars bearing car numbers GALX 96001 through 96182 inclusive, 210 Avalanche® railcars bearing car numbers HBWX 96183 through 96392 inclusive, 172 Super Avalanche® railcars bearing car numbers RWSX 97001 through 97172 inclusive, and 30 Super Avalanche® railcars bearing car numbers RWSX 98001 through 98030, inclusive (collectively, the "Cars"); and

WHEREAS, Customer intends to finance its purchase of the Cars but the financing arrangements will not be completed by the scheduled delivery date for the Cars; and

WHEREAS, Customer desires to utilize the Cars before the financing arrangements are completed, and Thrall is willing to grant temporary possession of the Cars to Customer on the terms and conditions hereinafter provided,

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, receipt of which is acknowledged, the parties hereby agree as follows:

- 1. Customer agrees to accept possession of the Cars, solely as bailee, when they are delivered by Thrall FOT Thrall's railcar plant, Cartersville, Georgia pursuant to the Purchase Agreement. Upon delivery of each Car Customer or its representative shall execute a Certificate of Conformance in the form of Exhibit A attached hereto.
- 2. Customer's rights hereunder shall commence with respect to each Car on the date of delivery by Thrall and end when the purchase price therefor is paid by Customer or its financing source (the "Termination Date") without further action of the parties.
- 3. Until the Termination Date for each Car, title and ownership shall remain with Thrall and Customer's rights therein shall be solely that of possession, use and custody as bailee. Transfer of title shall occur only pursuant to a Bill of Sale duly executed and delivered by Thrall, and the sale of each car under the Purchase Agreement shall be deferred until its Bill of Sale is so delivered. The interests created by this Agreement shall automatically terminate with respect to each Car upon delivery of a Bill of Sale.

4. Customer intends to close its financing arrangements in monthly installments on November 27, 1996, December 20, 1996, January 30, 1997 and March 6, 1997. If any of such installments does not occur on the scheduled date, Customer shall immediately pay to Thrall a security deposit equal to the full purchase price due on such date calculated in accordance with the Purchase Agreement. Deposits shall be payable on Friday of each week for all Cars delivered during such week, by wire transfer of federal funds to the following account.

Thrall Car Manufacturing Company Account No. 78-58167 Bank of America Illinois ABA No. 0710-0003-9 Chicago, Illinois 60693

If Customer's financing source takes title to a Car then the applicable deposit shall be refunded to Customer, and if Customer takes title to a Car then the applicable deposit shall be credited to Customer.

- Customer shall have risk of loss of all Cars delivered pursuant to this Agreement Customer shall, at its expense, maintain in force public liability and property damage insurance with respect to the Cars in such amounts and with such terms as are comparable with those generally applicable to other railcars owned or leased by Customer.
- 6. Until the Termination Date for each Car, Customer shall keep and maintain the Car in good order and running condition, normal wear and tear excepted, and Customer shall at its option promptly repair, replace or pay to Thrall the purchase price if a Car is damaged or destroyed. Customer shall not modify any Car without the prior written approval of Thrall, and Customer shall immediately replace or restore any markings which are removed, destroyed or defaced. Prior to delivery of each Car hereunder it shall be numbered with a road number and, in anticipation of the closing of Customer's financing, marked with the following legend in letters not less than one inch high:

OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE SURFACE TRANSPORTATION BOARD

Customer shall reimburse Thrall for all costs incurred by it as a result of placing such legend on the Cars if Customer's financing is not completed.

- Customer shall not permit any liens or encumbrances of any kind, other than the usual interchange of traffic rules, nondelinquent mechanics', tax, judgment, and similar statutory liens, and the lien of this Agreement, to attach to any Car prior to the Termination Date for such Car
- 8. Customer shall operate the Cars in accordance with all applicable laws, rules and regulations so long as Customer has possession pursuant to this Agreement

2 10/28/96

- 9. Customer acknowledges and agrees that Thrall's execution of this Agreement and its delivery of Cars hereunder does not relieve Customer of its obligation to make payment in full for the Cars in accordance with the Purchase Agreement. If Thrall does not receive payment in full in accordance with the provisions of paragraph 3 of this Agreement, Customer's right of possession under this Agreement shall terminate and Thrall may enter upon the premises of Customer and take immediate possession of any Cars for which payment in full has not been received, in addition to exercising all other remedies available to it under law or in equity.
- 10. Prior to delivery of any of the Cars Thrall shall file a copy of this Agreement with the Surface Transportation Board of the Department of Transportation and take such other actions to protect Thrall's interest as Thrall shall reasonably request. Simultaneously with its delivery of a Bill of Sale for each Car Thrall shall deliver to Customer or its financing source for filing a Termination of Agreement with respect to such Car in the form of Exhibit B attached hereto.
- 11. Customer shall indemnify and hold Thrall harmless from and against any and all claims, expenses, costs or liabilities, including but not limited to reasonable attorneys' fees, arising out of or in connection with Customer's possession, use or custody of the Cars pursuant to this Agreement or Customer's violation of any provisions of this Agreement or the Purchase Agreement Customer shall pay all taxes (excluding any taxes measured by the net income of Thrall), fines, charges and penalties that may accrue or be assessed or imposed upon the Cars or upon Thrall as owner of the Cars while Customer has possession, use or custody pursuant to this Agreement.
- 12. Customer acknowledges that it takes possession of the Cars subject to the provisions of the Purchase Agreement, including those relating to warranties, remedies and limitation of liability. The warranty period and any other time period set forth in the Purchase Agreement shall commence on the date of execution of a Certificate of Conformance.
- 13. Customer and Thrall each represent and warrant to the other that (i) the execution and delivery of this Agreement have been authorized by all necessary corporate action and do not and will not contravene or constitute a default under the provisions of any agreement or instrument binding upon it or any of its property, (ii) this Agreement constitutes a valid and binding obligation of it enforceable in accordance with its terms, subject to applicable insolvency, bankruptcy or moratorium laws and general principles of equity and (iii) all governmental authorizations, approvals or exemptions required of it for the execution and delivery of this Agreement or for the validity and enforceability of this Agreement against it have been obtained. Customer represents and warrants to Thrall that the rights of Thrall contained in this Agreement and the title of Thrall to the Cars are, and will be through the Termination Date, senior to the lien of any mortgage, security agreement or other instrument binding upon Customer or any of its property

- This Agreement shall be governed by and construed in accordance with the 14 internal laws of the State of Illinois, without giving effect to the conflict of law principles thereof
- This Agreement may be executed in multiple counterparts which taken together 15. shall constitute a single instrument.

THRALL CAR MANUFACTURING **COMPANY**

By:

Title. Treasurer

GEORGIA POWER COMPANY

STATE OF ILLINOIS) ss: COUNTY OF DUPAGE)

On the 28th day of October, 1996 before me personally appeared Charles R. Snavely, to me known who, being by me duly sworn, stated that he is Treasurer of Thrall Car Manufacturing Company, that the foregoing instrument was executed on behalf of such corporation, and he acknowledged that the execution of the foregoing instrument was the act and deed of such corporation.

Hola Q Devarle

Notary Public

My commission expires: 1/3/198

"OFFICIAL SEAL"

Lola Deleonardis

Metery Maine, State of Illinois

My Commission Expires 1/31/98

STATE OF GEORGIA)
) ss:
COUNTY OF
)

On the 24 day of October, 1996 before me personally appeared therry C Audains to me known who, being by me duly sworn, stated that he is Asst. Corp Sec of Georgia Power Company, that the foregoing instrument was executed on behalf of such corporation, and he acknowledged that the execution of the foregoing instrument was the act and deed of such corporation.

Charte P. White Notary Public

My commission expires 622,1997

EXHIBIT A

CERTIFICATE OF CONFORMANCE

The undersigned, a duly authorized inspector	for	("Customer"),
hereby certifies that the units of railroad equi by the undersigned on behalf of Customer an conformance with the requirements and prov	ipment described below h id have been found to be o	ave been inspected
Description of Car		
Manufacturer: Thrall Car Manufacturing Co	mpany, Cartersville, Geor	gia
Quantity:		
Car Numbers.		
	•	
	Print Name	WA .
	Authorized Representation	ve
	Date of Inspection:	, 199

EXHIBIT B

TERMINATION OF AGREEMENT

Termination of Agreement dated, 199_ between Thrall Car Manufacturing Company, an Illinois corporation with its principal offices located at 2521 State Street Chicago Heights, IL 60411 ("Thrall"), and Georgia Power Company, a Georgia corporation with its principal offices located at 333 Piedmont Avenue, Atlanta, Georgia 30308 ("Customer").		
WHEREAS, Thrall and Customer are parties to an Interim Use Agreement dated October, 1996 (the "Agreement") with respect to () railcars bearing car numbers through inclusive manufactured by Thrall for Customer (the "Cars"), and		
WHEREAS, the Agreement was duly filed for recordation with the Surface Transportation Board of the Department of Transportation (the "Board") on, 199_ at, and given Recordation Number, and		
WHEREAS, Thrall and Customer desire to terminate the Agreement with respect to certain of the Cars and to record such termination with the Board,		
NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, receipt of which is acknowledged, the parties hereby agree as follows:		
1. Thrall and Customer hereby terminate the Agreement, effective, 199_with respect to the Cars listed on Schedule 1 attached hereto; provided, however, that nothing contained in this Termination of Agreement shall affect the rights and liabilities of the parties under the Agreement with respect to acts, events or omissions occurring or or prior to the date hereof		
2. Customer shall record this Termination of Agreement with the Board in order to release any lien created by or arising out of the Agreement with respect to the Cars listed on Schedule 1.		
3. Nothing contained herein shall be construed to terminate the Agreement with respect to any Cars other than the Cars listed on Schedule 1.		

•			
4. taken	This Termination of Agreem together shall constitute a sing	_	be executed in multiple counterparts which iment.
		THRA COMI	LL CAR MANUFACTURING PANY
		•	Charles R. Snavely Treasurer
		GEOR	GIA POWER COMPANY
		By	

8 10/28/96

STATE OF ILLINOIS)		
COUNTY OF)	SS	
COUNTY OF		
known who, being by me Manufacturing Company,	, 199_ before me personally appeared e duly sworn, stated that he is t, that the foregoing instrument was executed owledged that the execution of the foregoing poration	of Thrall Car on behalf of such
	Notary Public	
My commission expires		
STATE OF GEORGIA) COUNTY OF	SS	
Company, that the forego	, 199_ before me personally appeared e duly sworn, stated that he is oing instrument was executed on behalf of su e execution of the foregoing instrument was to	ich corporation, and
	Notary Public	
My commission expires		

SCHEDULE 1

Description of Car.	
Quantity:	
Car Numbers:	